

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

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RAFAEL VERDEJO RUIZ,  
Plaintiff,

v.

DARRYL W. BURKE. et al.,  
Defendant.

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) C.A. No. 23-00210-MSM-LDA  
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**ORDER**

Mary S. McElroy, United States District Judge.

On June 9, 2023, United State Magistrate Judge Lincoln D. Almond issued a Report and Recommendation (“R&R”) (ECF No. 4) in the above captioned matter. Judge Almond has recommended that Plaintiff’s Complaint (ECF No. 1) be Dismissed after he conducted a review pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) and (ii). The Plaintiff (“Mr. Ruiz”) filed an objection to the R&R (ECF No. 5) and a Motion to Amend his Complaint (ECF No. 6).

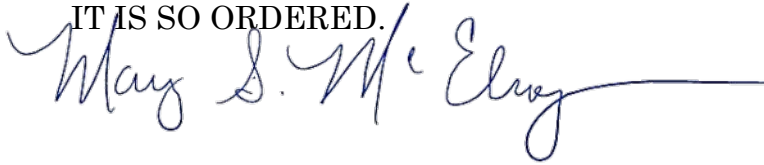
The Court has reviewed the R&R and Mr. Ruiz’s Objection. The Court agrees with the analysis and recommendations in the R&R. Therefore, the Court overrules Mr. Ruiz’s objection to the R&R and adopts it in total pursuant to 28 U.S.C. §636(b)(1). The Complaint is therefore DISMISSED.

Further, the Court has reviewed Mr. Ruiz’s Motion to Amend the Complaint and finds that the proposed amendments would not cure the any of the defects noted by the magistrate judge. None of the proposed amendments cure the absence of

subject matter jurisdiction, the lack of proper venue, or the lack of personal jurisdiction. While courts liberally grant motions to amend complaints, “when it would be futile to allow a complaint to be amended because the new assertions would fail to withstand a motion to dismiss, leave to amend should be denied.” *Moore v. Eli Lilly & Co.*, 626 F. Supp. 365, 366. (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)).

Therefore Mr. Ruiz’s Motion to Amend the Complaint (ECF No. is DENIED.)

IT IS SO ORDERED.

A handwritten signature in blue ink, reading "Mary S. McElroy", with a long horizontal flourish extending to the right.

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Mary S. McElroy  
United States District Judge

August 21, 2023